

STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING A JUDGE
NO. 138 (Judge D. Ronald Hyde)

DECISION AND ORDER OF
PUBLIC CENSURE

This is a disciplinary matter concerning D. Ronald Hyde, Judge of the Alameda County Municipal Court, Livermore-Pleasanton-Dublin Judicial District. The Notice of Formal Proceedings alleges seven counts of misconduct, all generally concerning misuse of the judicial office.

Prior to filing an answer to the Notice, Judge Hyde submitted a proposed disposition of the matter to trial counsel. The proposed disposition, along with a stipulated statement of facts, was submitted to the Commission on May 8, 1996.

Having reviewed the facts as stipulated by the parties and pursuant to the stipulated disposition, the Commission now makes the following findings of fact and conclusions of law.

Statement of Facts

The Commission accepts as true the following statement of stipulated facts:

1. Judge D. Ronald Hyde has been a judge of the Alameda County Municipal Court, Livermore-Pleasanton-Dublin Judicial District, from December 19, 1982, to the present.
2. In the fall of 1990, Judge Hyde asked certain court employees to access DMV records for the purpose of obtaining the addresses of former classmates in connection with a class reunion. After compiling the list, one of the employees, at the direction of Judge Hyde, sent the list to a third party involved in organizing the reunion. In 1991, when the Clerk/Administrator

sent a memorandum to all court employees asking such employees to acknowledge the restrictions on use of DMV records, Judge Hyde, believing himself to not be a “court employee,” declined to sign the acknowledgment.

3. Between 1991 and 1995, Judge Hyde asked various court employees to access DMV records for the purpose of obtaining information regarding motorists that was not related to court business.

4. In 1991, 1993, and 1994, a court secretary performed typing, photocopying, and other services in connection with a paralegal class which Judge Hyde taught at a local College. This included typing a lengthy lesson plan, typing mid-term and final examinations, photocopying class materials, mailing out graded final examinations using court envelopes and postage, and typing correspondence. All of this work translated into the equivalent of approximately ten working days over the entire period. On May 9, 1994, the Clerk/Administrator advised Judge Hyde that he considered the use of court resources in this regard to be excessive. Although Judge Hyde generally ceased this practice, he did, on May 13, 1994, cause a court secretary to send a personal letter and make copies of the final examination.

5. Between 1992 and 1995, Judge Hyde used a county facsimile machine to send approximately 57 personal facsimile transmissions to Idaho.

6. Between 1990 and 1994, Judge Hyde requested that a court secretary send approximately 48 personal letters, approximately 43 of which were sent on official court stationery. These letters were composed during the work day by utilizing county computers.

7. On January 14, 1991, Judge Hyde requested that the court secretary type an “affidavit in lieu of appearance” that he submitted in connection with a complaint regarding a neighbor’s dog, which he filed in his personal capacity.

8. In 1992, Judge Hyde requested that the court secretary type up his application for a federal judgeship. Judge Hyde then had a discussion with the Clerk/Administrator regarding the best way to get the application to San Francisco on short notice, and the application was ultimately driven to San Francisco by a court attendant utilizing a county vehicle.

9. On or about October 23, 1995, Judge Hyde and a court employee had a conversation regarding the employee’s occasional trips to Oakland to deliver evidence. This conversation related to Judge Hyde’s need to pick up forms relating to his candidacy for re-election, and the court employee interpreted Judge Hyde’s questions regarding these trips to be a request that the court employee spend personal time picking up the needed forms. Ultimately, a division chief produced evidence to be delivered to Oakland by the court employee, although there was not a particular necessity that the evidence be delivered at that time, and while delivering the evidence the court employee also obtained the re-election forms which were needed by Judge Hyde.

10. In 1993 and 1994 there were occasions when Judge Hyde brought his elementary school-aged daughter to work and the court secretary and other court employees assisted in watching her activities. On one occasion in 1993, during her break, a court employee picked up Judge Hyde's daughter from a dental appointment during what would be considered work hours. Judge Hyde was unable to accomplish this task because he was unable to leave court.

11. Between 1990 and 1995, the court secretary performed work for Judge Hyde that benefited a particular Club, an organization of which Judge Hyde was a member and past President. In 1990 and 1991, the equivalent of approximately 40 work hours were spent doing work that included preparing a 73-page guest list, a 7-page ticket number list, and a 7-page alphabetical list and correspondence for the Club's Cabaret Night; inserting approximately 1,000 pre-printed invitations into envelopes, as well as addressing the envelopes; and typing the by-laws, constitution, membership committee forms, an information pamphlet, an affidavit and an article for the newsletter of the Club. She also typed approximately 61 pieces of Club-related correspondence, approximately 32 of which were printed on official court stationery, and 20 of which were sent on the courthouse facsimile machine or by using county postage.

12. During 1991 and 1992, Judge Hyde requested that the court secretary create a 94-page mailing list for a particular Charity; whereupon she also generated copies of a fund-raising letter addressed to those on the mailing list. Additionally, she typed labels, envelopes, by-laws, and personnel policies relating to the Charity. The court secretary spent the equivalent of approximately 24 work days on such tasks.

13. In November, 1991, Judge Hyde and a clerk/administrator had a conversation regarding utilization of the court secretary's time, during which the clerk/administrator formed the impression that Judge Hyde was attempting to intimidate him regarding his job security.

14. Between 1990 and 1994, Judge Hyde failed to report on his annual verified Statement of Economic Interests form the following items: a) income received from a local College during 1993 and 1994; b) a \$28,000 personal loan in 1993; and c) a trip to Hong Kong received as a raffle prize in 1993. Judge Hyde represents (and the Commission accepts as true) that this failure was inadvertent and amended statements will be filed.

15. Between 1990 and 1995, Judge Hyde used official court stationery to send letters to the following business entities or public officials under circumstances in which the use of court stationery could have been interpreted to lend the prestige of judicial office to personal or private interests: a) a letter to an Insurance Company forwarding a Claim of Loss form regarding a burglary at Judge Hyde's home; b) a letter to the Presidents of two airlines complaining of flight delays experienced during a trip; c) a letter, written in Judge Hyde's capacity as President of the Board of Directors of a Charity, to a mayor and the members of a City Council on behalf of a business' "request for modification of their PUD;" d) a letter to a life insurance company regarding changes to Judge Hyde's insurance policy; e) a letter to a book publisher regarding a billing dispute; and f) a letter to the President of a Bank reconfirming Judge Hyde's interest in serving as a member of the Board of Directors of a Fair.

16. Between 1991 and 1995, Judge Hyde made sexually-related comments toward female court employees which were deemed to be offensive by some court employees who overheard the statements. For example, during the week of October 23, 1995, Presiding Judge Hugh Walker and two division chiefs were having a conversation regarding court policies and procedures when Judge Hyde commented to a female division chief, "Are we having a PMS day?"

17. Between 1993 and 1995, Judge Hyde was absent from the courthouse for six and three-quarters days without reporting them as vacation time. Additionally, there were other days when Judge Hyde absented himself from the courthouse without reporting the time as vacation time and regularly left the courthouse when the Friday calendar was completed, sometimes as early as noon. On some days when Judge Hyde was absent, as well as on some days when he was present, the county incurred the expense of utilizing a commissioner to hear civil trials, small claims matters, or traffic matters.

18. None of the acts related above concern the manner in which Judge Hyde conducted his courtroom proceedings or deported himself while on the bench. It was Judge Hyde's impression that utilizing the work time of court personnel did not result in the impairment or nonproduction of necessary court business. Judge Hyde represents (and the Commission accepts as true) that he has taken measures to ensure that neither court personnel nor county equipment is utilized in any manner or in any activity that is not strictly court-related.

Basis for Accepting a Stipulated Disposition

The stipulated facts admit substantially all of the allegations set forth in the Notice of Formal Proceedings. As noted above, the Commission also accepts Judge Hyde's representations of fact as being true.

In a separate signed statement, Judge Hyde also represented that he:

"... is aware of the inappropriateness of the actions reflected by the Agreed Statement of Facts and assures the Commission that these actions will not be repeated in the future.

The Commission has concluded, in view of Judge Hyde's response to the Notice and his assurances that the challenged conduct has ceased and will not resume, that discipline less than removal from office would be appropriate. The Commission therefore accepts the proposed disposition and agrees that it will not order that Judge Hyde be removed from office. In proposing this disposition, Judge Hyde waived the right to a hearing and to petition the Supreme Court for review.

Discipline

The Commission has carefully reviewed the record. The stipulated facts establish repeated instances of conduct prejudicial to the administration of justice.* As noted, the Commission's principal concern in this matter is whether Judge Hyde should be removed from office. Short of removal, the next most serious level of discipline available to the Commission is public censure.

The Commission concludes that the appropriate discipline is a severe public censure. The Commission vote was 8 to zero.

Order

For the reasons set forth herein, the Commission orders that Judge D. Ronald Hyde be, and he hereby is, issued a severe public censure.

Dated: May 14, 1996

William A. Masterson
Chairperson

* The use of DMV records for personal purposes comes very close to willful misconduct in office. The stipulated facts do not afford, however, clear and convincing evidence that Judge Hyde's actions were performed in a judicial capacity. Dodds v. Commission on Judicial Performance (1995) 12 Cal.4th 163.